

# **Exhibit A**

## Staten Islanders file civil rights complaint against Bayonne Bridge project

**Steve Strunsky I The Star-Ledger** By **Steve Strunsky I The Star-Ledger**

**Email the author | Follow on Twitter**

on January 28, 2014 at 3:58 PM, updated January 28, 2014 at 5:06 PM

**NEW YORK** — A Staten Island community group says a project to raise the Bayonne Bridge violates the landmark Civil Rights Act of 1964 by exposing minority residents of the island's north shore to toxins without providing any offsetting economic benefits.

The North Shore Waterfront Conservancy (NSWC) said today that it had filed a complaint with the U.S. Environmental Protection Agency against the Port Authority of New York and New Jersey, the sponsor of the \$1.2 billion bridge project.

The complaint alleges that the Port Authority has failed to present an adequate mitigation plan for lead, PCBs and asbestos released into the air as a result of the project. It asks the EPA to mediate negotiations between the port agency and residents to insure proper monitoring and mitigation measures are in place.

The project is intended to assure the continued viability of the port by eliminating the bridge's current low-hanging roadway as an obstacle to the latest generation of container ships seeking to get to terminals in Newark, Elizabeth and Staten Island.

But the complaint also asserts that North Shore residents will not benefit significantly from jobs directly tied to the project or the expected growth in port cargo volumes. The Port Authority receives federal funding from the EPA, and Title VI of the Civil Rights Act prohibits discrimination by any recipient of government money.

The Port Authority rejected the complaint's assertions, insisting it had accounted for the project's health impact on workers and the public alike.

"The Port Authority developed a Construction Health and Safety Plan, in accordance with all required Federal and State rules and regulations, to assure the health and safety of construction workers and the general public for the Bayonne Bridge construction," an agency spokesman, Chris Valens, said in a statement.



Residents of the Staten Island's north shore have filed a complaint with the Environmental Protection Agency asserting that a project to raise the Bayonne Bridge exposes them to harmful toxins without any significant economic benefit.

Aristide Economopoulos/The Star-Ledger

Proponents of the bridge project include Gov. Chris Christie and other elected officials, the local shipping industry and related businesses, and labor groups eager for the construction jobs it will bring. Preliminary work began on the project last fall, and overnight lane closures went into effect last month as the work accelerated.

Proponents want the roadway raising to move forward as quickly as possible because an expansion of the Panama Canal to be completed next year will permit the passage of big vessels from Asia. If the lower roadway is not removed by then, proponents fear, cargo and jobs could be lost permanently to competing East Coast ports where no such obstacle exists. The Port Authority says 280,000 jobs and billions of dollars in annual economic activity are supported directly or indirectly by the port.

The president and executive director of the North Shore group, Beryl Thurman, an asthma sufferer who lives six blocks from the bridge, said symptoms of respiratory ailments among children and adults in her community have worsened since the bridge work began, though she acknowledged that cold weather can have the same effect.

Thurman said she did not know whether the complaint and any monitoring or remediation measures it may lead to would delay the project. But, referring to the Port Authority, she said, "It's something they should have given this community from day one."

Apart from the EPA complaint, the North Shore group is among several plaintiffs, including the Ironbound Community Corporation, in a pending federal lawsuit seeking to negate a permit issued by the U.S. Coast Guard. The suit, which asserts that the Coast Guard did not account for the long-term impact on port neighborhoods, could add a year to the project if a judge orders the guard to conduct a full environmental impact statement on the project.

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# **Exhibit B**



## North Shore environmentalists say Port Authority responsible for Bayonne Bridge project toxins (with video)

**Port Authority outlines plans for raising Staten Island's Bayonne Bridge**

**Judy L. Randall | randall@siadvance.com** By **Judy L. Randall | randall@siadvance.com**

on January 30, 2014 at 6:02 AM, updated January 30, 2014 at 6:09 AM

STATEN ISLAND, N.Y -- A North Shore environmental group has filed a formal complaint against the Port Authority for what it says is exposure of residents living in the vicinity of the Bayonne Bridge construction project to contaminants.

Beryl Thurman, executive director and president of the North Shore Waterfront Conservancy (NSWC), said residents of Elm Park, Mariners Harbor and Port Richmond, where she resides, are being exposed daily to lead, PCBS and asbestos as a result of ongoing construction to raise the bridge.

NSWC filed an administrative complaint with the U.S. Environmental Protection Agency against the Port Authority of New York and New Jersey, which is overseeing the construction work, citing Title VI of the Civil Rights Act of 1964.

Ms. Thurman noted the neighborhoods in question have already been designated an "Environmental Justice Showcase Community," because of elevated levels of lead in some children residing there.

Ms. Thurman told the Advance residents are being "exposed to airborne particles and dust and dirt from the



A spokesman for the Port Authority said the agency developed a Construction Health and Safety Plan, in accordance with all required federal and state rules and regulations, to assure the health and safety of construction workers and the general public for the Bayonne Bridge construction.

Staten Island Advance/Anthony DePrimo

Bayonne Bridge construction site that is extending a mile in the community" from the work itself as well as trucks.

"There are residential properties that butt up against the bridge," said Ms. Thurman. "What is the plan for mitigation? What is the plan for contamination?"

The complaint argues that the PA is "violating the civil rights of residents of color on the North Shore of Staten Island by creating an adverse, disparate and unjustified impact."

Asked to comment, PA spokesman Chris Valens said: "The Port Authority developed a Construction Health and Safety Plan, in accordance with all required federal and state rules and regulations, to assure the health and safety of construction workers and the general public for the Bayonne Bridge construction."

Ms. Thurman said she has sought information from elected officials, the PA and the EPA, but has "gotten no answers or the answers are ambiguous."

"The Port Authority has stonewalled us for months about information on toxic hazards that should have been made public," said Ms. Thurman. "It's a textbook environmental injustice move. We are a protected population by law and we need to be protected for real."

She said the EPA should resolve with the Port Authority to get comprehensive sampling, monitoring and mitigation policies in place throughout the construction project.

She also said she wants impacted North Shore residents "included" in the resolution and compliance process.

Ms. Thurman said residents have complained to her about "odors in the air, difficulty breathing and dust and dirt on their cars ... They are concerned."

John Martin, a spokesman for EPA's Region 2, which covers New York, said: "The EPA is reviewing the complaint."

Councilwoman Debi Rose (D-North Shore), who chairs the Council's Waterfronts Committee, did not immediately respond to a request for comment.

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# **Exhibit C**



# SWITCHBOARD

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Sara Imperiale's Blog

## Civil Rights of North Shore Residents Violated By Bayonne Bridge Project Construction



Posted February 3, 2014 in [Curbing Pollution](#), [Environmental Justice](#), [Health and the Environment](#), [U.S. Law and Policy](#)

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Last week, NRDC filed a Title VI administrative complaint with the U.S. Environmental Protection Agency ("EPA") Office of Civil Rights on behalf of the [North Shore Waterfront Conservancy of Staten Island](#) ("NSWC"), a not-for-profit organization dedicated to advancing public policies that are inclusive of the needs of the North Shore's environmental justice communities. The administrative complaint was filed against the Port Authority of New York and New Jersey ("Port Authority") and alleges that the ongoing construction on the North Shore of Staten Island [to raise the roadway of the Bayonne Bridge](#) is creating an adverse, discriminatory, and unjustified impact on nearby residents of color.

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race across all activities or decisions made by recipients of federal funding. However, several U.S. Supreme Court decisions have created [barriers to communities enforcing it in court](#), meaning that remedies for racially disparate impacts are only available through administrative complaints filed with federal agencies under their Title VI implementing regulations. Fundamentally, the strength of Title VI comes from the requirement that these federal agencies affirmatively act on complaints to ensure that the activities of their funding recipients do not result in discriminatory outcomes. The Port Authority must comply with EPA's Title VI implementing regulations because it receives federal financial assistance from that agency.

In this case, civil rights are being violated because project construction on the North Shore is creating unjustified adversity that disproportionately burdens residents of color.

### Adversity

Construction activities are likely exposing residents to hazardous contaminants such as lead, polychlorinated biphenyls ("PCBs"), and asbestos through a variety of pathways, predominantly inhalation and ingestion. Site visits to the North Shore construction zone revealed that excavation in areas of known PCB contamination has been occurring without precautions in place to contain soil runoff, while in areas of lead contamination, there is evidence that excavated materials are being carried onto public sidewalks by construction vehicles.

Across the board, these toxic pollutants that originate outdoors can penetrate the indoor environment through cracks and other entry points, with contaminants from public sidewalks often being carried into homes on residents' shoes and clothing. Since construction began in the fall, NSWC members and residents adjacent to the construction zone have reported that their vehicles are covered with dust blowing over from the Port Authority properties and that they are experiencing difficulty breathing with more frequent asthma attacks.

While similar contaminants are being disturbed by construction on the New Jersey side of the Bayonne Bridge, project construction is exacerbating existing cumulative adversity borne by the communities of color on the North Shore. For example, the North Shore is a National Ambient Air Quality Standard nonattainment area for particulate matter 2.5 and EPA selected the North Shore as [one of ten "Environmental Justice Showcase Communities"](#) across the United States because of the number of children with elevated levels of lead in their blood.

### Discriminatory

The construction is discriminatory because the probability of being affected by the contaminants exposed by construction is higher for people of color and people of color comprise a substantially greater proportion of the affected population than the general population of Staten Island. The residential areas adjacent to the construction zone on the North Shore are both more densely populated and have a significantly higher percentage of people of color than either the similarly situated communities in Bayonne or the entirety of Staten Island.

### Unjustified

Finally, the Port Authority's legitimate economic justification for the project doesn't eliminate its duty to engage in mitigation to achieve a less discriminatory outcome. While raising the Bayonne Bridge to provide access to larger foreign vessels may increase the Port's economic competitiveness, project benefits will not be felt by the people of color on the North Shore further burdened to achieve that end.



This administrative complaint is a complementary tool to a more traditional [lawsuit filed in July 2013 against the U.S. Coast Guard](#) by NRDC, NSWC, [the Coalition for Healthy Ports](#), [the Elm Park Civic Association](#), and [the Eastern Environmental Law Center](#) to compel a comprehensive assessment of the environmental impacts of raising the Bayonne Bridge roadway under the National Environmental Policy Act (“NEPA”). In comparison, the Title VI administrative complaint focuses on mitigating the cumulative adversity exacerbated by project construction that is disparately impacting North Shore residents of color. It also provides an outlet to involve EPA, which otherwise has no legal grounds to participate.

NSWC is asking the Port Authority to engage in more comprehensive monitoring, sampling, and exposure mitigation throughout project construction. It is imperative that EPA meaningfully include the affected North Shore residents in each stage of resolution of the complaint, including soliciting community input on remedies and facilitating community inclusion in negotiations with the Port Authority. The Port Authority has legitimate and important economic reasons for raising the Bayonne Bridge roadway. However, project construction must not continue in a way that exacerbates the risk of exposure to toxic contaminants for residents of color who already bear the brunt of Staten Island’s polluting industries and who won’t see any of the long-term economic benefits associated with the project.

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# **Exhibit D**

Town Hall Meeting Focuses on Bayonne Bridge Project



By **Nicholas Ricci** ([//www.dnainfo.com/new-york/about-us/our-team/editorial-team/nicholas-ricci](#)) on April 23, 2014 6:58am  
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PORT RICHMOND — Residents who have questioned the air quality based on the Bayonne Bridge ([http://www.dnainfo.com/new-york/places/bayonne-bridge](#)) reconstruction, or complained about loud noises and a shut-down water supply, will get a chance to sound off about the project next month.

Councilwoman Debi Rose has set up a Town Hall meeting between residents and Port Authority officials ([http://www.dnainfo.com/new-york/tags/port-authority-of-new-york-new-jersey](#)) in May, allowing neighbors to air concerns about the \$1.3 billion project to raise the bridge's roadways.

Since construction started in November, residents have worried about the large amount of dust in the air — and caking their homes and windows — and the constant loss of water from 8 a.m. to 4 p.m.

"When I come home I would like to have my water," said Alice Ruiz, 56, who has lived on Newark Avenue for five years. "We get this every single day."

Others said no matter how much they clean their homes, the dust leaves thick layers on their siding, and the noises are a nuisance.

Beryl Thurman, head of the North Shore Waterfront Conservancy, worries that excavation work could release asbestos, lead, PCBs and other toxins into the air, and has called on the Port Authority to get an environmental agency to test the air.

"The bridge property is in the backyard in the residential homes, in other cases it's directly across the street," Thurman said. "They're not air-tight houses. Whatever is outside blows into the house. We have all this dust and dirt flying around in the area and we don't know what we're breathing in."

However, Port Authority said their tests have not found any significant contaminants in the air or soil from their work.

"The Port Authority developed a Construction Health and Safety Plan, in accordance with all required federal and state rules and regulations, to assure the health and safety of construction workers and the general public for the Bayonne Bridge construction," said Chris Valens, a PA spokesman.

The agency also leaves two cases of bottled water in front of homes when they have to shut the water off, usually until 4 p.m., and offered to give up to \$10,000 to replace damaged windows in homes.

The project will raise the roadway of the 82-year-old bridge, which will allow larger container ships to pass underneath. Crews will also widen the lanes and shoulders to create a 12-foot bicycle and pedestrian path, according to the Port Authority.

Rose did not respond to a request for comment for this story, but Port Authority officials said that they have not finalized a date for the meeting.

Ruiz said she feels like she's in the dark about the large construction project going on across the street from her home, and plans to try and get answers at the meeting.

"I don't know what's going on with this," she said. "I'll definitely go."

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- CV

5 months ago

I am affected by this and it would help a lot if the PA laid out the construction schedule so we'd know what to expect. I was told the water shut-offs would only be for 2 weeks but it has gone on longer than that. The noise comes and goes but we never know what's going to happen next. As to toxins, the PA's own documents state that elevated levels of lead were found in soil. Their documents also state that Air Quality monitoring is going on to check for particulate matter in the air. Why not publish the results weekly so nobody would have any uncertainty about it.

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- James Wilson

5 months ago

mv